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THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

JUN -7 2018

CLERK, U.S. DISTRICT COURT,
WESTERN DISTRICT OF TEXAS
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RICKY R. FRANKLIN

Civil Action No: 1:18-CV-236-LY

Plaintiff,

v.

UPLAND SOFTWARE, INC.,

Defendant

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, Ricky R. Franklin, Pro se, and pursuant to Fed. R. Civ. 56, and LR. 56.1-56.7, respectfully moves for Summary Judgment and requests summary judgment on the following claims within his Complaint for violations of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 et seq and O.GC.G.A 46-5-27(i).

SUMMARY

COUNT I – The Defendant Upland Software, Inc., (hereinafter, USI) violated the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 et seq by calling/texting the Plaintiff on his cellphone and leaving a automated voice

message on his phone. Further, Defendant USI called Plaintiff using a automated system at least twenty-five (25) times in violation of the statute.

COUNT II – Defendant USI violated O.GC.G.A 46-5-27(i) by contacting Plaintiff without his prior express written consent at least twenty-five (25) times by means of automatic text messaging to a cellphone or pager in violation of O.C.G.A 46-5-27 (i).

The elements of each claim as to the summary judgment is sought; Plaintiff expressly adopts and incorporates its accompanying Memorandum of Law in accordance with LR 56.5 and LR 7.2 and Statement Undisputed Material Facts. In accordance with LR 56.6, Plaintiff will also file an Appendix.


REQUESTED RELIEF

Plaintiff respectfully asks the Court to enter an order granting this motion for Summary Judgment, and requests the following relief against Defendant USI,

1. Statutory damages of \$500.00 for each of the 25 calls in violation of 47 U.S.C. § 227et seq.
2. Statutory damages of \$2,000.00 for each of the 25 calls made negligently in violation of O.GC.G.A 46-5-27(i)

Respectfully submitted, June 2nd 2018

Ricky R. Franklin


708 Brambling Way
Stockbridge, GA 30281
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rrfrank12@hotmail.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was sent via mail on June 2nd 2018 to Defendant's Counsel listed below:

CLEVELAND TERRAZAS PLLC

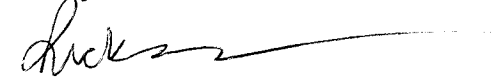
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ATTORNEYS FOR DEFENDANT UPLAND SOFTWARE, INC.

Ricky R. Franklin



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